



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, CA 94105-3901

APR 24 2017

Certified Mail
7016 1370 0000 2235 2074

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

**IN THE MATTER OF: DRIVEN PERFORMANCE BRANDS, FLOWMASTER, INC., and
B & M RACING PERFORMANCE PRODUCTS**

Driven Performance Brands
Attention: Flowmaster, Inc., and B & M Racing Performance Products
100 Stony Point Road, #125
Santa Rosa, CA 95401-4131

Request for Information Under § 208(a) of the Clean Air Act, 42 U.S.C. § 7542(a)

The United States Environmental Protection Agency ("EPA") hereby requires Flowmaster, Inc. (Flowmaster)¹ to submit certain information as part of an EPA investigation to determine Flowmaster's compliance with Section 203 of the Clean Air Act (CAA), 42 U.S.C. § 7522, and the applicable regulations at 40 C.F.R. Parts 85 and 86. Examples of vehicles or engines regulated under these Parts include, but are not limited to, light-duty cars and trucks. Appendix A provides definitions, Appendix B provides instructions for your responses to this Request for Information, and Appendix C specifies the information that you must submit.

We are issuing this Request for Information under Section 208(a) of the CAA, 42 U.S.C. § 7542(a). Under Section 208(a) of the CAA, EPA may require any person who is subject to the CAA to provide information necessary to determine whether the person has acted in compliance with the requirements and the regulations promulgated thereunder.

You must submit this information to the EPA representative listed below within thirty (30) calendar days from the date of this Request for Information. Please carefully review the instructions, definitions, and specific requests as you prepare your response. If you anticipate being unable to fully respond to this Request for Information by this date, you must contact Rose Galer at (415) 947-4289 or Gailer.Rose@epa.gov within 15 days of the date of this Request for Information and, with an appropriate justification, request an extension of time to answer some or all of the requests below. If timely submitted, the EPA will review your request and may extend the time in which your response must be provided.

Failure to provide the required information may result in the initiation of a civil action pursuant to

¹ The terms "you", "your" and "Flowmaster" includes Flowmaster Inc., Driven Performance Brands, B&M Racing Performance Products, and any affiliated persons. See definition in Appendix A to this letter.

Section 205(b) of the CAA, 42 U.S.C. § 7524(b). Failure to provide all requested information in its entirety, and in the format requested, may result in additional inquiries and penalties. It is important that your responses be clear, accurate, organized, and complete. We will regard submitted information that is misleading, false, incomplete, or submitted without regard to its accuracy as a violation of the CAA and/or criminal statutes. We may use any information submitted in response to this Request for Information in an administrative, civil, or criminal action.

Finally, you must submit all requested information under an authorized signature with the following certification (provided in Appendix D):

I certify under penalty of law that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Clean Air Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001 and 1341.

You are entitled to assert a business confidentiality claim covering all or part of the information you submit in response to this Request for Information, in accordance with the procedures described in the Confidentiality of Business Information ("CBI") regulations, 40 C.F.R. Part 2, Subpart B. However, no CBI claim may be made with respect to emissions data as defined at 40 C.F.R. § 2.301(a)(2). You must specify the page, paragraph and sentence when identifying the information subject to your CBI claim. Appendix E of this Request for Information specifies the assertion and substantiation requirements for business confidentiality claims. The EPA may, without further notice, provide the public with any information not subject to a CBI claim.

Please submit all requested information, via courier service or overnight delivery, to:

Matt Salazar, Manager, Air Enforcement Office
Attn: Rose Galer, Environmental Protection Specialist
U.S. Environmental Protection Agency, Region IX
75 Hawthorne St. (ENF-2-1)
San Francisco, CA 94105

Any questions concerning this Request for Information should be directed to Rose Galer at 415-947-4289 or Galer.Rose@epa.gov or have your attorney contact Margaret Alkon in the Office of Regional Counsel at 415-972-3890 or Alkon.Margaret@epa.gov.



Matt Salazar
Manager, Air Enforcement Office
United States Environmental Protection Agency
Region 9

4.29.2017

Date

Appendix A

Definitions

1. All terms used in this Request for Information will have their ordinary meaning unless such terms are defined in the CAA, 42 U.S.C. §§ 7401 et seq., or the Motor Vehicle Regulations found at 40 C.F.R. Parts 85, 86 and 1068.
2. The terms “affiliate” or “affiliated” are used to indicate a relationship to a specified person, and mean any person that, directly or indirectly or through one or more intermediaries, owns or controls, is owned or controlled by, or is under common ownership or control with such person (other than entities serving solely as customs brokers).
3. The term “Catalytic Converter System” or “Catalyst” includes systems which increase the rate of a chemical reaction but are not one of the original reactants or final products (i.e., it is not consumed or altered in the reaction).
4. The terms “document” and “documents” means any object that records, stores, or presents information, and includes, without limitation, email, writings, memoranda, contracts, agreements, records, or information of any kind, formal or informal, whether wholly or partially handwritten or typed, whether in computer format, memory, or storage device, or in hardcopy, including any form or format of these. If in computer format or memory, each such document shall be provided in translation to a form useable and readable by EPA, with all necessary documentation and support. All documents in hard copy shall also include attachments to or enclosures with any document.
5. The term “Emission Related Parts” means those parts installed for the specific purpose of controlling emissions or those components, systems, or elements of design which must function properly to assure continued vehicle emission compliance as defined in 40 C.F.R. § 85.2102 (including but not limited to a catalytic converter, a turbocharger, an Exhaust Gas Recirculation, a diesel particulate filter, a secondary catalytic reactor, a fuel injector, a selective catalytic reduction, onboard diagnostics, and electronic control).
6. The term “end-user” means the person who ultimately uses or is intended to ultimately use a product.
7. The term “Exhaust Gas Recirculation” or “EGR” includes systems which redirect, usually by use of an EGR valve, a portion of engine exhaust back into the engine’s combustion chamber to cool and reduce peak combustion temperatures and pressures, thereby reducing the production of nitrogen oxide (NO_x). The EGR system may include an EGR cooler to cool the recirculated exhaust to further reduce the combustion temperature.

8. The term “person” includes an individual, corporation, partnership, limited liability company, sole proprietorship, joint venture, or any formal or informal entity, organization or association.
9. The term “selective catalytic reduction” or “SCR” includes systems which inject a reductant, such as diesel exhaust fluid (DEF), into the exhaust stream where it reacts with a catalyst to convert NO_x to nitrogen gas (N_2) and water (H_2O).
10. The terms “you”, “your”, and “Flowmaster” includes Flowmaster Inc., Driven Performance Brands, B & M Racing Performance Products and any affiliates, predecessors, successors, and assigns.

Appendix B
Instructions for Responses

1. This Request is a continuing request. You must promptly supplement your response to any request in Appendix C in the event you learn that you possess responsive information not yet produced or if you gain possession, custody, or control of responsive information after initially responding to this Request for Information.
2. Provide a complete, detailed response in English to each of the requests in Appendix C, below. Provide any narrative responses or lists, in written document form or electronic form using an electronic spreadsheet (*e.g.*, Word, Excel).
3. When a response is provided in the form of a number, specify the units of measure of the number in a precise manner.
4. Where documents or information necessary for a response is not in your possession, custody or control, indicate in your response why such documents or information is not available or in your possession, custody or control, and identify any source that either possesses or is likely to possess such information.
5. All submitted documents should be copies and not original documents. Provide two complete sets of the requested documents and information (one set in hard copy form and the other set in electronic form).
6. You must maintain an unaltered and complete copy of your website as it exists at the time this letter is received. This includes all pages, graphical elements, and text displayed on the website. You must provide this information in readable electronic format to EPA within ten days upon request.

Appendix C

Request for Information

Flowmaster must submit a copy of the following information to the EPA, pursuant to Section 208 of the CAA, 42 U.S.C. § 7542, regarding the manufacture, distribution, sale and/or offering for sale of certain parts and products during the period May 1, 2015 through the present.

1. Table 1 to this Appendix C (below) identifies exhaust systems or exhaust system components (collectively “component” or “product”) sold by Flowmaster from the period May 1, 2015-April 2016, as confirmed in the documentation provided by Lee Thompson of Flowmaster to EPA inspectors on May, 27, 2016 (excel document named “DPBrands Sales Qty May2015-April2016.xlsx”). Table 1 also identifies components discussed during the EPA inspection on May 26, 2016. For each item listed in Table 1, provide the information requested below. Specifically, for each component Flowmaster must state whether the component:
 - a. Enables the customer or end-user to bypass, defeat, or otherwise render inoperative a motor vehicle emission control device, element of design, or any other Emission Related Parts including but not limited to the Catalytic Converter System (Catalyst), Exhaust Gas Recirculation (EGR), and selective catalytic reduction (SCR); or
 - b. Changes, affects, or simulates the operation of an Emission Related Part (e.g., exhaust systems that are equipped with catalyst simulators, oxygen sensor simulators, or diesel particulate filter simulators).
 - c. For any component identified in either question 1.a or 1.b above, list the Emission Related Part.
2. For each component identified in Table 1, provide the following information:
 - a. Indicate the vehicle applications by make, model, and year.
 - b. Describe the function of the component and identify whether and how the component enables removal of an Emission Related Part.
 - c. Provide copies of the technical documentation for each component, including, but not limited to, product manuals, technical specifications, installation and operating instructions, and warranty information. For exhaust systems and exhaust system components, indicate the total length of the fully-assembled component as sold by Flowmaster (prior to any cutting or custom fabrication by Flowmaster, the customer, the end-user, or any other person).

- d. Identify by name all websites, magazines, trade publications, and any other media in which Flowmaster advertised the component at any time since May 1, 2015.
- e. Indicate whether the component is accompanied by the following disclaimers, statements, or other similar language in any documentation, marketing materials, advertisements, websites, or other media:
 - i. "Use of these components is not emissions compliant and may only be used for Off Road applications (except in California or states that have adopted CA emissions standards)."
 - ii. "The product accompanying this document is legal only for off-highway use (except in California or states that have adopted California emission standards), racing use or for use on pre-emission-controlled motor vehicles/motor vehicle engines (pre-1966 domestic vehicles certified to California standards, pre-1968 domestic vehicles certified to federal standards and all pre-1968 foreign vehicles), per the manufacturer's application guide."
 - iii. "Off-highway racing use only"
 - iv. "Off-road use only"
 - v. "Race use only"

Provide references to all materials containing such statements.

- f. If Flowmaster has recommended that the component be used for testing, maintenance, racing, or off-road only, describe the mechanisms, if any, that Flowmaster has implemented to ensure that the component is only used for such purposes.
- g. Provide all correspondence, including correspondence between Flowmaster and its customers and end-users, regarding the impact that the component has on a vehicle's ability to pass vehicle emissions testing, including any complaints from customers to Flowmaster or a third-party indicating that they experienced difficulty passing a vehicle emissions test with the component installed.
- h. Provide all correspondence from customers or end-users regarding the impact a Flowmaster component has on the ability to use an emission control device, element of design, or any other Emission Related Parts, including, but not limited to, complaints that the customer or end-user is unable to use a Catalyst with the component.
- i. Provide copies of all product reviews or testimonials submitted to Flowmaster via the Flowmaster website or any other means. This request applies to all testimonials including, but not limited to, those that are currently posted on Flowmaster's website,

those that have been removed from Flowmaster's website, and those that Flowmaster received but did not post on its website for any reason.

- j. Provide any information Flowmaster has regarding the vehicles the components were intended for, such as Vehicle Identification Numbers (VINs) or license plate numbers.
 - k. State the quantity of components manufactured by or for Flowmaster starting May 1, 2015, through the date of this letter.
 - i. Identify the name and address of the manufacturer, and the location(s) where the components were manufactured. If the product was not physically manufactured by Flowmaster, identify the name and address of the supplier from whom you purchased the product.
 - l. State the quantity that was sold by Flowmaster to consumers with shipping addresses in the United States during each year from May 1, 2015, through the date of this letter.
 - m. Provide copies of receipts for the total quantity of each component sold by Flowmaster to consumers with shipping addresses in the United States during each year from May 1, 2015, through the date of this letter.
 - n. State the quantity that was sold by Flowmaster to wholesalers, distributors, or authorized dealers during each year from May 1, 2015, through the date of this letter.
 - o. Provide copies of invoices or receipts for each component sold by Flowmaster to all wholesalers, distributors, or authorized dealers during each year from May 1, 2015, through the date of this letter.
 - p. Identify the name, address, contact person, and phone number of each wholesaler, distributor, and authorized dealer for which Flowmaster provides an invoice or receipt in response to Question 2.o. For each entity identified, also identify the brand name under which each component is or has been marketed.
3. Provide the name and address of each location where any of the components, identified in Table 1, have been or currently are being stored or offered for sale by Flowmaster.
4. For each component identified in Table 1, indicate whether you submitted an application for an Executive Order to the California Air Resources Board and provide a copy of the application for each component. State whether each component received an Executive Order exempting the component from California's emission control system anti-tampering law, California Vehicle Code § 27156. If the component received an Executive Order,

provide the Executive Order number and state whether the California Air Resources Board required you to change the component or application to receive approval.

5. For each component identified in Table 1 for which an application for an Executive Order from the California Air Resources Board has not been submitted, state whether any tests have been conducted that measure the impact of the component on motor vehicle air pollutant emissions, or that measure the impact of the component on a vehicle's emission control devices or elements of design. For each such test, provide a description of the test (including identification of the component and vehicle, and the test protocol), specify the date and location of the test, specify who conducted the test, and provide a copy of the test results.
6. Describe Flowmaster's process for evaluating the potential impacts its components have on vehicle air pollutant emissions.
 - a. Does Flowmaster evaluate the emissions impact of components it manufactures or sells that increase vehicle horsepower?
 - b. How does Flowmaster determine whether an Executive Order from the California Air Resources Board or any similar approval is required for a component it intends to manufacture or sell?
7. State whether Flowmaster or any of its affiliates manufactured or sold, since May 1, 2015, tuners or similar aftermarket devices which are used to read, clear, or prevent the occurrence of vehicle diagnostic trouble codes, or use any other means to interfere with the proper functioning of the vehicle's on-board diagnostic system to detect and report a malfunctioning, non-functioning, or missing Catalyst, O2 sensor, or other emission control device, element of design, or any other Emission Related Component.
8. Provide all documents not covered by the previous requests pertaining to the ability of any Flowmaster product to allow a vehicle to operate without a Catalyst, O2 sensor, or other emissions control component, element of design, or any other Emission Related Component.
9. Provide a list of all persons (as defined in Appendix A) that are affiliated with Flowmaster. Describe the business relationships with these persons and include a description of the organizational structure of Flowmaster and an organizational chart that depicts the parent and/or subsidiary companies affiliated with Flowmaster, along with each companies' relative ownership interest.
10. Provide a copy of your articles of incorporation and by-laws.
11. Identify each person responsible for responding to this Request for Information, including their title, and the question(s) to which they responded.

Table 1 to Appendix C – List of Components

Number	Invoice Item/Part Number	Sales Grp Description	Description
<i>Components Included in "DPBrands Sales Qty May2015-April2016" Submitted May 27, 2016</i>			
1	1078	Pipe Kits	Turbo Downpipe Kit 99-03 Ford 4in
2	15901	Pipe Kits	Single Tailpipe Kit 2.5in 4-piece
3	15902	Pipe Kits	Single Tailpipe Kit 3in 4-piece
4	15903	Pipe Kits	Single Tailpipe Kit 3.5in 4-piece
5	15920	Pipe Kits	Balance Pipe Kit for 2.5in Tubing
6	15929	Pipe Kits	Single Tailpipe Kit 4in 4-pieces
7	15935	Pipe Kits	Pipe Kit U-Fit Dual Exhaust 2.25in
8	15936	Pipe Kits	Pipe Kit U-Fit Dual Exhaust 2.5in
9	15937	Pipe Kits	Pipe Kit U-Fit Dual Exhaust 3in
10	17220	Pipe Kits	Turbo Downpipe and Crossover Kit
11	81055	Pipe Kits	Tailpipe Kit 2.5in. 409S Impala
12	81066	Pipe Kits	05-10 MUSTANG GT MID PIPES USE W/814212
13	81067	Pipe Kits	10-13 CAMARO SS MID PIPES USE W/814117
14	81068	Pipe Kits	Manifold Downpipe Kit 409S
15	81069	Pipe Kits	06-13 MOPAR MID PIPES USE W/814310
16	81072	Pipe Kits	MANIFOLD DOWNPIPES GM C10/C15 SBC 409S
17	81073	Pipe Kits	MANIFOLD DOWNPIPES PONTIAC A-BODY 409S
18	81074	Pipe Kits	MANIFOLD DOWNPIPES PONTIAC F-BODY 409S
19	81087	Pipe Kits	75-79 CORVETTE MANIFOLD PIPE 409S
20	81088	Pipe Kits	80-81 CORVETTE MANIFOLD PIPE 409S
21	81092	Pipe Kits	84-85 CORVETTE MANIFOLD PIPE 409S
22	81093	Pipe Kits	MANIFOLD DOWNPIPES OLDSMOBILE 409S
23	81107	Pipe Kits	RESONATOR DELETE XPIPE 2015 MUSTANG 3.7L
24	81108	Pipe Kits	2015 MUSTANG 2.3L RESONATOR DELETE
25	81109	Pipe Kits	2015-2016 MUSTANG GT RESONATOR DELETE XPIPE
26	814110	Headers	HEADER 1-5/8" CAMRO/CHEVLLE/NOVA SB
27	814111	Headers	HEADER 1-3/4" CAMRO/CHEVLLE/NOVA BB
28	814115	Headers	CAMARO/CHEVELLE/NOVA LS HDR 1-5/8"
29	814117	Headers	10-14 CAMARO SS 6.2L LONG TUBE HDR
30	814121	Headers	HEADER SHORTY 10-14 CAMRO SS 6.2L
31	814122	Headers	HEADER SHORTY 10-11 CAMARO 3.6L
32	814123	Headers	HEADER SHORTY 02-09 GM SB TRUCK/SUV
33	814212	Headers	05-10 MUSTANG GT 4.6L LONG TUBE HDR
34	814220	Headers	HEADER UNIVERSAL 1-5/8" FORD SB
35	814221	Headers	HEADER SHRTY 86-93 MSTNG GT/LX 5.0L

Number	Invoice Item/Part Number	Sales Grp Description	Description
<i>Components Included in "DPBrands Sales Qty May2015-April2016" Submitted May 27, 2016</i>			
36	814222	Headers	HEADER SHORTY 96-98 MUSTANG GT 4.6L
37	814223	Headers	HEADER SHORTY 99-04 MUSTANG GT 4.6L
38	814224	Headers	HEADER SHORTY 05-10 MUSTANG GT 4.6L
39	814225	Headers	Header Shorty 11-14 Mustang GT 5.0L
40	814226	Headers	HEADER SHRT 05-10 F150/F250/EXP5.4L
41	814227	Headers	HEADER SHRT 97-03 F150/F250/EXP5.4L
42	814310	Headers	06-14 MOPAR SRT8 LONG TUBE HDR
43	814320	Headers	HEADER SHRT 05-08 CHR/MAG/300 5.7L
44	814321	Headers	HEADER SHRTY 09-14 CHR/CHL/300 5.7L
45	814420	Headers	HEADER SHORTY 91-99 WRANGLER 4.0L
46	815932	Pipe Kits	Crossover Pipe Kit 2.5in 409S 5pcs
47	815933	Pipe Kits	Crossover Pipe Kit 3in 409S 5 pcs
48	815935	Pipe Kits	U-Fit Dual Exhaust Kit 409S 2.25in
49	815936	Pipe Kits	U-FIT DUAL KIT 2.50" 409S
50	815937	Pipe Kits	U-Fit Dual Exhaust Kit 409S 3in
51	817413	Pipe Kits	Header-back System 409S 59-64Impala
52	915936	Pipe Kits	UNIVERSAL-FIT DUAL PIPE KIT 2.50" 304S
53	915937	Pipe Kits	UNIVERSAL-FIT DUAL PIPE KIT 3.00" 304S
54	6350000	EXHAUST KIT	EXHAUST, AB 10-15 CAMARO SS
55	6350001	EXHAUST KIT	CAT-BACK HURST EXHAUST 14-15 CAMARO SS 6.2L 304S
56	6350002	EXHAUST KIT	CAT-BACK HURST EXHAUST 10-13 CAMARO SS 6.2L 304S
57	6350010	EXHAUST KIT	CAT-BACK HURST EXHAUST 08-14 CHALLENGER SRT8 6.1L/6.4L 304S
58	6350011	EXHAUST KIT	CAT-BACK HURST EXHAUST 09-14 CHALLENGER R/T 5.7L 304S
59	6350013	EXHAUST KIT	CAT-BACK HURST EXHAUST 15-16 CHALLENGER R/T 5.7L 304S
60	6350014	EXHAUST KIT	CAT-BACK HURST EXHAUST 2015 CHALLENGER SRT 6.2L/6.4L 304S
61	6350020	EXHAUST KIT	EXHAUST, AB 11-14 MUSTANG GT 5.0L
62	6350022	EXHAUST KIT	11-12 MUSTANG GT 5.0L HURST 304S
63	6350023	EXHAUST KIT	CAT-BACK HURST EXHAUST 13-14 MUSTANG GT 5.0L 304S
64	6350024	EXHAUST KIT	2015-2016 MUSTANG GT 5.0L HURST 304S
65	6350025	EXHAUST KIT	EXHAUST, AB 2015 MUSTANG GT 5.0L

Number	Invoice Item/Part Number	Sales Grp Description	Description
<i>Additional Components Discussed During EPA Inspection May 26, 2017 and Found in Flowmaster Inc. 2016 Catalog</i>			
66	817571		
67	817457		
68	17104		
69	817104		
70	17349		

Appendix D
Statement of Certification

You are submitting the enclosed documents in response to the U.S. Environmental Protection Agency's ("EPA") Request for Information, issued pursuant to Section 208(a) of the Clean Air Act, to determine compliance with the Clean Air Act and its affiliated regulations.

I certify that I am fully authorized by _____ [corporate affiliation] to provide the above information on its behalf to EPA.

I certify under penalty of law that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Clean Air Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001 and 1341.

Date: _____

Name (Printed): _____

Signature: _____

Title: _____

Appendix E

Confidential Business Information

You may assert a business confidentiality claim covering all or part of the information you provide in response to this Request for Information for any business information entitled to confidential treatment under Section 208(c) of the CAA, 42 U.S.C. § 7542, and 40 C.F.R. Part 2, subpart B. Under Section 208(c) of the CAA, you are entitled to confidential treatment of information that would divulge methods or processes entitled to protection as trade secrets. Under 40 C.F.R. Part 2, subpart B, business confidentiality means “the concept of trade secrecy and other related legal concepts which give (or may give) a business the right to preserve the confidentiality of business information and to limit its use or disclosure by others in order that the business may obtain or retain business advantages it derives from its rights in the information.” See 40 C.F.R. § 2.201(e).

Information covered by a claim of business confidentiality will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in Section 208(c) of the CAA and 40 C.F.R. Part 2, subpart B. EPA will construe your failure to furnish a business confidentiality claim with your response to this Request for Information as a waiver of that claim, and the information may be made available to the public without further notice to you.

To assert a business confidentiality claim, you must place on (or attach to) all information you desire to assert as business confidential either a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as “trade secret,” “proprietary,” or “company confidential” at the time you submit your response to this Request for Information. Allegedly confidential portions of otherwise non-confidential documents should be clearly identified, and may be submitted separately to facilitate identification and handling by the EPA. You should indicate if you desire confidential treatment only until a certain date or until the occurrence of a certain event.

The criteria the EPA will use in determining whether material you claim as business confidential is entitled to confidential treatment are set forth at 40 C.F.R. §§ 2.208 and 2.301. These regulations provide, among other things, that you must satisfactorily show that: (1) the information is within the scope of business confidentiality as defined at 40 C.F.R. § 2.201(e), (2) that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so, (3) the information is not and has not been reasonably obtainable by legitimate means without your consent, and (4) the disclosure of the information is likely to cause substantial harm to your business competitive edge. See 40 C.F.R. §§ 2.208 (a)-(d). Emission data, as defined at 40 C.F.R. § 2.301(a)(2), is expressly not entitled to confidential treatment under 40 C.F.R. Part 2, subpart B. See 42 U.S.C. § 7542(c); 40 C.F.R. § 2.301(e).

If you assert a claim of business confidentiality in connection with information and documents forwarded in response to this Request for Information, in accordance with 40 C.F.R.

§ 2.204(e)(4), the EPA is requesting that you answer the following requests with respect to any information or document for which you assert a claim of business confidentiality:

1. What specific portions of the information are alleged to be entitled to confidential treatment? Specify by page, paragraph, and sentence when identifying the information subject to your claim.
2. For what period of time do you request that the information be maintained as confidential (*e.g.*, until a certain date, until the occurrence of a specified event or permanently)? If the occurrence of a specific event will eliminate the need for confidentiality, specify that event. Additionally, explain why the information should be protected for the time period you have specified.
3. What measures have you taken to protect the information claimed as confidential from undesired disclosure? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information still be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports or articles? Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
5. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
6. For each category of information claimed as confidential, explain with specificity whether disclosure of the information is likely to result in substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effect. How could your competitors make use of this information to your detriment?
7. Is there any other explanation you deem relevant to the EPA's determination of your business confidentiality claim that is not covered in the preceding requests? If so, you may provide such additional explanation.

You must furnish comments to the above requests concurrent with your response to this Request for Information if you have claimed any information as business confidential. See 40 C.F.R.

§ 2.204(e)(2). Pursuant to 40 C.F.R. § 2.205(b)(2), you may request an extension of this deadline.

The EPA will construe your failure to furnish timely comments as a waiver of your confidentiality claim, consistent with 40 C.F.R. § 2.204(e)(1). Please submit your comments to:

Rose Galer, Environmental Protection Specialist
U.S. Environmental Protection Agency, Region 9
75 Hawthorne Street (ENF-2-1)
San Francisco, CA 94105

Pursuant to 40 C.F.R. § 2.205(c), you are hereby advised that information you submit as part of your comments may be entitled to confidential treatment if, when it is received by the EPA, it is marked in accordance with 40 C.F.R. § 2.203(b). As required by 40 C.F.R. § 2.204(e)(6), you may assert a business confidentiality claim covering all or part of your response to these requests, as provided in 40 C.F.R. § 2.203(b). Information covered by such a business confidentiality claim will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in Section 208(c) of the CAA and 40 C.F.R. Part 2. The EPA will construe the failure to furnish a confidentiality claim with your comments as a waiver of that claim, and the information may be made available to the public without further notice to you.